

To: Stacy or  
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4 pages

James E. McGreevey  
Governor

State of New Jersey  
Department of Environmental Protection

Bradley M. Campbell  
Commissioner

IN THE MATTER OF THE  
THE PHILLIPSBURG/LOPATCONG SITE  
FLOWSERVE CORPORATION  
And INGERSOLL-RAND COMPANY

: ADMINISTRATIVE  
: CONSENT ORDER  
: THIRD AMENDMENT

Case #s E99685, E20000050, E20040306, and PI#012833

This Administrative Consent Order Amendment is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "the Department" or "NJDEP") by N.J.S.A. 13:1D-1 et seq., the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. and duly delegated to the Assistant Director, Division of Remediation Support pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. The property that is the subject of this Administrative Consent Order Amendment is operated by Flowserve Corporation and is owned by Ingersoll-Rand Company. It is located at 942 Memorial Parkway and is designated as Block 2312, Lots 1, 2, 3, and 16.01 *not in PPA*, Block 3201, Lots 7 and 8, and Block 3301, Lots 1, 2, and 4 on the tax maps of the Town of Phillipsburg, Warren County, New Jersey and Block 101, Lots 1 and 1.01 on the tax maps of the Township of Lopatcong, Warren County, New Jersey (hereinafter the "Phillipsburg/Lopatcong Site"). The Standard Industrial Classification ("SIC") number which best describes the operations at the Phillipsburg/Lopatcong Site is 3561.

identified amended  
in ACO #3 as  
"formerly  
designated  
Block"

2. NJDEP and Ingersoll-Rand Company entered into an Administrative Consent Order effective March 31, 1992 (hereinafter "Ingersoll-Rand ACO") to remediate the Phillipsburg/Lopatcong Site. The Phillipsburg/Lopatcong Site has a Standard Industrial Classification code which is subject to the Industrial Site Recovery Act (ISRA) N.J.S.A. 13:1K-6 et seq. and any regulations promulgated pursuant thereto.

3. On December 31, 1999, NJDEP and Ingersoll-Rand Company entered into an Administrative Consent Order Amendment (ISRA Case #E99685) which allowed IDP Acquisition, LLC to acquire its interest in Ingersoll-Dresser from Haliburton International, Inc. This transaction was an ISRA triggering event pursuant to N.J.S.A. 13:1K-6 et seq.

4. On April 27, 2000, NJDEP and Ingersoll-Rand Company entered into an Administrative Consent Order Second Amendment (ISRA Case #E20000050) which allowed Ingersoll-Rand Company to see its 51% interest in Ingersoll-Dresser to Flowserve RED Corporation, and also allowed the sale of IDP Acquisition, LLC's 49% interest in Ingersoll-Rand Company to Flowserve Corporation. This transaction was an ISRA triggering event pursuant to N.J.S.A. 13:1K-6 et seq.

5. By letter dated July 8, 2004, Ingersoll-Rand Company submitted to NJDEP a General Information Notice (ISRA Case #E20040306). The GIN notified NJDEP about Ingersoll-Rand Company's intention to sell the real property at the Phillipsburg/Lopatcong Site to Phillipsburg Associates, L.P., Phillipsburg Associates I, L.P., Phillipsburg Associates II, L.P., and Phillipsburg Associates III, L.P. Each purchaser is a limited partnership, with its primary offices located at 1001 East Hector Street, Suite 100, Conshohocken, PA 19428. This transaction is an ISRA triggering event pursuant to N.J.S.A. 13:1K-6 et seq. Therefore, Ingersoll-Rand Company must comply with ISRA and any regulations promulgated pursuant thereto, with respect to the Phillipsburg/Lopatcong Site.

6. By letter dated July 27, 2004, Ingersoll-Rand Company, Inc. requested that the Ingersoll-Rand Administrative Consent Order be further amended to allow the transaction described in paragraph 5 above to be completed prior to completion of the ISRA requirements.

7. This Administrative Consent Order Amendment is entered into by Ingersoll-Rand Company and NJDEP to allow the transaction described above to be completed prior to completion of ISRA requirements.

8. On March 25, 1994, Ingersoll-Rand Company established a remediation funding source (Line of Credit) in the amount of \$500,000.00. In accordance with paragraph 44 of the Ingersoll-Rand Company ACO, and N.J.A.C. 7:26C-7, upon the Department's approval of a remedial action, Ingersoll-Rand Company is required to amend the amount of the remediation funding source to equal the estimated cost of implementation of the approved remedial action. By letter dated June 17, 2004, Ingersoll-Rand Company indicated that the cost of remedial action at the Phillipsburg/Lopatcong Site was \$745,000.00. Therefore, Ingersoll-Rand Company shall increase the existing remediation funding source to the amount of \$745,000.00 or establish an additional remediation funding source, in accordance with N.J.A.C. 7:26C-7, in the amount of \$245,000.00 within thirty (30) days of the effective date of this ACO Amendment.

9. Ingersoll-Rand Company agrees to pay an annual remediation funding source surcharge if required to do so pursuant to N.J.A.C. 7:26C-7.8.

### ORDER

10. The provisions of this Administrative Consent Order Amendment shall become part of the Ingersoll-Rand Company ACO. The Ingersoll-Rand Company ACO, as amended, shall remain in full force and effect and Ingersoll-Rand Company shall continue to comply with the Ingersoll-Rand Company ACO. Compliance with the requirements of the Ingersoll-Rand Company ACO shall satisfy the requirements of ISRA. The Department's notification under the Ingersoll-Rand Company ACO, namely, that the obligations of the Ingersoll-Rand Company ACO are completed, shall also signify that Ingersoll-Rand Company has completed its ISRA requirements and has satisfied the obligations of this Administrative Consent Order Amendment.

### RESERVATION OF RIGHTS

11. This Administrative Consent Order Amendment shall be fully enforceable in the New Jersey Superior Court having jurisdiction over the subject matter and signatory parties upon the filing of a summary action for compliance pursuant to ISRA and the Spill Compensation and Control Act N.J.S.A. 58:10-23.11 *et seq.* This Administrative Consent Order Amendment may be enforced in the same manner as an Administrative Consent Order issued by NJDEP pursuant to other statutory authority and should not preclude NJDEP from taking whatever action it deems appropriate to enforce the environmental protection laws of the State of New Jersey.

12. NJDEP reserves the right to require Ingersoll-Rand Company to take or arrange for the taking of any and all additional measures at the Site if NJDEP determines that such actions are necessary to protect human health or the environment.

13. By the execution of this Administrative Consent Order Amendment, NJDEP does not release any person from any liabilities or obligations such person may have pursuant to any other applicable authority, nor does NJDEP waive any of its rights or remedies pursuant thereto.

14. The execution of this Administrative Consent Order Amendment by Ingersoll-Rand Company does not relieve Ingersoll-Rand Company from their ISRA liabilities, or any obligations such person may have pursuant to any other applicable authority, nor does NJDEP waive any of its rights or remedies pursuant thereto.

15. This Administrative Consent Order Amendment shall be effective upon the execution of this Administrative Consent Order Amendment by Ingersoll-Rand Company and the NJDEP. Ingersoll-Rand Company may consummate the transaction described at Paragraph 4 above, upon the execution of this Administrative Consent Order Amendment. Ingersoll-Rand Company shall return one fully executed original Administrative Consent Order Amendment to the NJDEP within fourteen (14) calendar days of execution. If Ingersoll-Rand Company does not return one fully executed original Administrative Consent Order Amendment to the NJDEP the Administrative Consent Order Amendment shall be null and void.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: 8/10/04

By: Ronald T. Corcoran  
Ronald T. Corcoran, Assistant Director  
Oversight Resources Allocation Element

INGERSOLL-RAND COMPANY

Date: 8/12/04

By: Aaron Kleinbaum  
Signature  
Aaron Kleinbaum, P.E.  
Director of Environmental Safety & Health  
And Assistant General Counsel  
Print Full Name Signed Above

Title